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Nos. 99-5 and 99-29

In The

Supreme Court of the United States

UNITED STATES OF AMERICA,

Petitioner,

vs.

ANTONIO MORRISON, et al.,

Respondents.

CHRISTY BRZONKALA,

Petitioner,

vs.

ANTONIO MORRISON, et al.,

Respondents.

On Writ Of Certiorari To The United States Court Of Appeals For The Fourth Circuit

MOTION FOR LEAVE TO FILE BRIEF *AMICI CURIAE* AND BRIEF *AMICI CURIAE* OF EQUAL RIGHTS ADVOCATES; AMERICAN ASSOCIATION OF UNIVERSITY WOMEN; AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO; BREAK THE CYCLE; BUSINESS AND PROFESSIONAL WOMEN/USA; THE JUNIOR LEAGUE OF BIRMINGHAM, INC. [AND ADDITIONAL *AMICI* LISTED ON INSIDE FRONT COVER] IN SUPPORT OF PETITIONERS

HORVITZ & LEVY LLP
DAVID S. ETTINGER
LISA R. JASKOL
MARY-CHRISTINE SUNGAILA*
* *Counsel of Record*
15760 Ventura Boulevard, 18th Floor
Encino, California 91436-3000
(818) 995-0800

Attorneys for Amici Curiae

COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

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ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT; AMERICAN MEDICAL WOMEN'S ASSOCIATION; THE BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW; THE CALIFORNIA STATE PUBLIC AFFAIRS COMMITTEE OF JUNIOR LEAGUES; THE CALIFORNIA WOMEN'S LAW CENTER; CENTER FOR ADVANCEMENT OF PUBLIC POLICY; CENTER FOR WOMEN POLICY STUDIES; CENTER ON HATE & EXTREMISM; THE COALITION FOR HUMANE IMMIGRANT RIGHTS OF LOS ANGELES; THE EMPLOYMENT LAW CENTER, A PROJECT OF THE LEGAL AID SOCIETY OF SAN FRANCISCO; FEMINIST MAJORITY FOUNDATION; THE GENERAL FEDERATION OF WOMEN'S CLUBS; HARRIETT BUHAI CENTER FOR FAMILY LAW; HOUSE OF RUTH DOMESTIC VIOLENCE LEGAL CLINIC; INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW); THE JUNIOR LEAGUE OF EL PASO, INC.; THE JUNIOR LEAGUE OF OAKLAND-EAST BAY, INC.; THE JUNIOR LEAGUE OF SAINT PAUL, INC.; THE JUNIOR LEAGUE OF SAN DIEGO, INC.; THE JUNIOR LEAGUE OF SAN FRANCISCO, INC.; NATIONAL ALLIANCE OF SEXUAL ASSAULT COALITIONS; NATIONAL ASSOCIATION OF COMMISSIONS FOR WOMEN; NATIONAL ASSOCIATION OF HUMAN RIGHTS WORKERS; NATIONAL COALITION AGAINST DOMESTIC VIOLENCE; NATIONAL COUNCIL OF JEWISH WOMEN; NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES; NATIONAL WOMEN'S HEALTH NETWORK; PUBLIC COUNSEL; PUBLIC LAW CENTER; WESTERN CENTER ON LAW AND POVERTY, INC.;

WIDER OPPORTUNITIES FOR WOMEN; WOMEN & PHILANTHROPY; WOMEN EMPLOYED; WOMEN LAWYERS ASSOCIATION OF LOS ANGELES; THE WOMEN'S BAR ASSOCIATION OF ILLINOIS; THE WOMEN'S LAW CENTER OF MARYLAND, INC.

MOTION FOR LEAVE TO FILE BRIEF *AMICI CURIAE* AND BRIEF *AMICI CURIAE* IN SUPPORT OF PETITIONERS

Amici hereby respectfully move for leave to file the attached brief *amici curiae* in this case. The consents of the Solicitor General, counsel of record for petitioner the United States, counsel of record for petitioner Christy Brzonkala, and counsel of record for respondent Antonio Morrison have been obtained. The consent of Joseph Graham Painter, Jr., attorney for respondent James L. Crawford, was requested but refused.

The interest of *amici* in this case arises from the fact that they are women's, civil rights, business, labor, medical and legal services organizations that recognize the deep economic impact of violence against women and are strongly committed to eliminating gender-based violence, a goal the 1994 Violence Against Women Act ("VAWA") – and, in particular, the statute's civil rights remedy for victims of gender-motivated violence – is designed to help achieve.

The brief *amici* propose to file supplements the arguments raised by the petitioners. Specifically, the brief lends additional support to petitioners' position that Congress acted within its Commerce Clause authority in enacting the VAWA civil rights remedy. The brief explains that additional social science data, beyond that already explicitly considered by Congress in enacting the VAWA and made available after the VAWA's enactment, further documents the severe limitations gender-based violence places on women's contribution to the national economy,

as well as the direct and immediate medical and social costs caused by such violence. As we show, these studies demonstrate that gender-motivated violence (1) hinders women's participation in, and contributions to, the national economy by decreasing women's ability to secure and maintain employment and to advance and be productive in their jobs, (2) increases women's need for and use of medical services, and (3) causes lower-income families to make greater demands on public assistance programs such as welfare.

In light of the foregoing, *amici* believe that the attached brief will assist the Court in its deliberations in this case and, therefore, respectfully urge the Court to permit the brief to be filed.

Respectfully Submitted,

HORVITZ & LEVY LLP
DAVID S. ETTINGER
LISA R. JASKOL
MARY-CHRISTINE SUNGAILA*
* *Counsel of Record*
15760 Ventura Boulevard, 18th Floor
Encino, California 91436-3000
(818) 995-0800

November, 1999 *Counsel for Amici Curiae*

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INTEREST OF *AMICI CURIAE*

Amici curiae are a broad array of women's, civil rights, business, labor, medical and legal services organizations, all of which recognize the deep economic impact of violence against women and are strongly committed to eliminating gender-based violence. Each has an abiding interest in ensuring the continued viability of the civil rights remedy provided by the 1994 Violence Against Women Act ("VAWA"), 42 U.S.C. § 13981, which recognizes a federal civil right to be free of gender-motivated violence and creates a civil remedy for violations of that right. Descriptions of the individual organizations are set forth in the attached Appendix.[1]

SUMMARY OF ARGUMENT

Congress enacted the VAWA in 1994 to address "the escalating problem of violence against women." S. Rep. No. 103-138, at 37 (1993). In Congress' view, the VAWA civil rights remedy, which gives victims of gender-motivated violence a federal cause of action against their attackers, was one of the "[m]ost important[ ]" components of this legislation. S. Rep. No. 103-138, at 38. The VAWA civil rights remedy is "truly a [classic] civil rights remedy. It redresses conduct that is motivated by bias or hatred toward a class of individuals because of a defining characteristic – gender." *Crimes of Violence Motivated By*

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[1] This brief was authored by the *amici* and counsel listed on the front cover, and was not authored in whole or in part by counsel for a party. No one other than the *amici* or their counsel made any monetary contributions to the preparation or submission of this brief.

Gender: Hearings Before the Subcomm. on Civil and Constitutional Rights of the House Comm. on the Judiciary, 103d Cong. 101-02 (1993) (statement of James P. Turner, Acting Assistant Attorney General, Civil Rights Division, U.S. Department of Justice). The statute reflects "a national commitment to condemn crimes motivated by gender in just the same way that [Congress has] . . . condemn[ed] crimes motivated by race or religion." S. Rep. No. 101-545, at 41 (1990).

Congress concluded that a primary reason for making a national commitment to remedying gender-based violence was the enormous adverse effect such violence had on interstate commerce. During four years of extensive investigation and consideration of the problem of gender-motivated violence, Congress heard voluminous testimony about the substantial threat to interstate commerce posed by gender-motivated violence and about the way that such violence limits women's equal participation in the national economy. Based on this evidence, Congress found that "crimes of violence motivated by gender have a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products." H. R. Conf. Rep. No. 103-711, at 385 (1994), *reprinted in* 1994 U.S.C.C.A.N. 1839, 1853; *see also* S. Rep. No. 103-138, at 54 (1993) ("Gender-based crimes and the fear of gender-based crimes restrict[ ] movement, reduce[ ] employment opportunities, increase[ ] health expenditures, and reduce[ ] consumer spending, all of which affect interstate commerce and the national economy").

This case requires the Court to decide, inter alia, whether the Constitution's Commerce Clause (U.S.

Const., art. I, § 8, cl. 3) gave Congress the power to remedy what it perceived to be a significant harm to interstate commerce from gender-motivated violence. "[I]n the first and primary instance," "the political branches . . . [have] the sworn obligation to preserve and protect the Constitution in maintaining the federal balance. . . . " *United States v. Lopez*, 514 U.S. 549, 577 (1995) (Kennedy, J. and O'Connor, J., concurring). Congress took this obligation very seriously in enacting the VAWA. Petitioners' briefs and the *amicus curiae* brief of Senator Joseph R. Biden, Jr. (the statute's chief sponsor) describe the extensive legislative history of Congress' enactment of the VAWA civil rights remedy and demonstrate that Congress affirmatively and rationally concluded that the impact of gender-motivated violence on interstate commerce is substantial.

This brief does not repeat those discussions. Rather, we further demonstrate the rationality of Congress' conclusion regarding the substantial impact of gender-motivated violence on interstate commerce. We do this by presenting additional social science data documenting the severe limitations gender-based violence places on women's contributions to the national economy, as well as the direct and immediate medical and social costs caused by such violence. These well-documented studies demonstrate (1) that gender-motivated violence hinders women's participation in, and contributions to, the national economy by decreasing women's ability to secure and maintain employment and to advance and be productive in their jobs, (2) women's increased need for and use of medical services as a result of gender-based

violence, and (3) the link between gender-motivated violence and lower-income families' greater demands on public assistance programs such as welfare.

STATEMENT OF THE CASE

In September 1994, Christy Brzonkala, a freshman at Virginia Polytechnic Institute ("Virginia Tech"), was gang-raped in her dormitory by fellow students Antonio Morrison and James Crawford, both of whom were members of the school's football team. *See Brzonkala v. Virginia Polytechnic Inst. & State Univ.*, 169 F.3d 820, 827 (4th Cir. 1999) (en banc). After raping Brzonkala, Morrison warned her, " '[y]ou better not have any f[uck]ing diseases.' " *Id.* In the months following the rape, Morrison announced publicly in the dormitory's dining hall that he " 'like[d] to get girls drunk and f[uck] the s[hit] out of them.' " *Id.* Brzonkala learned another male student had advised Crawford that he should have " 'killed the bitch' " after raping her. *Id.* at 907 (Motz, J., dissenting).

As a result of the rape, Brzonkala stopped attending classes and eventually dropped out of college. *See id.* (Motz, J., dissenting). She became depressed and withdrawn, attempted suicide, and sought psychiatric treatment from a Virginia Tech psychiatrist, who prescribed antidepressant medication. *See id.* (Motz, J., dissenting). Although Brzonkala planned to return to school, she canceled those plans when she learned Virginia Tech, after investigating the rapes, had decided to let Morrison return to campus under a " 'deferred suspension.' " *Id.* at 908 (Motz, J., dissenting).

In December 1995, Brzonkala filed suit against Morrison and Crawford, invoking the VAWA civil rights remedy, 42 U.S.C. § 13981. *See id.* (Motz, J., dissenting). The

district court dismissed the claim and a panel of the United States Court of Appeals for the Fourth Circuit reversed. *Id.* (Motz, J., dissenting); *Brzonkala v. Virginia Polytechnic Inst. & State Univ.*, 132 F.3d 949 (4th Cir. 1997). Following rehearing en banc, the Court of Appeals affirmed the district court's order, holding Congress exceeded its authority in enacting the statute. *See Brzonkala*, 169 F.3d at 826.

ARGUMENT

SOCIAL SCIENCE DATA MADE AVAILABLE AFTER THE ENACTMENT OF THE VAWA CIVIL RIGHTS REMEDY CONFIRMS CONGRESS' CONCLUSION THAT GENDER-MOTIVATED VIOLENCE SUBSTANTIALLY AFFECTS INTERSTATE COMMERCE.

A. Overview: Gender-Based Violence Harms The National Economy.

In concluding that the enactment of the VAWA civil rights remedy fell within Congress' Commerce Clause powers, the Senate Judiciary Committee found that "violent crime against women costs this country at least 3 billion . . . dollars a year" (S. Rep. No. 101-545, at 33 (1990)) and that "health care, criminal justice, and other social costs of domestic violence" total $5 billion to $10 billion a year (S. Rep. No. 103-138, at 41 (1993)). Social science data published since the VAWA's enactment establishes that the costs of gender-motivated violence to the national economy are even more substantial than Congress believed. In 1996, for example, the National Institute of Justice ("NIJ") concluded that domestic

violence against adults – 90% to 95% of them women[2] – accounts for almost 15% of total crime costs, or $8.8 billion per year in medical and employment costs and $58 billion per year in additional losses such as emotional harm. *See* Ted R. Miller et al., National Inst. of Justice, *Victim Costs and Consequences: A New Look* 1, 18-19 (1996) [hereinafter *Victim Costs*].[3] The NIJ found that victim costs attributable to rape (a crime committed against women at a rate 14 times greater than men[4]) amounted to $7.5 billion in economic harm annually and $119 billion per year in emotional costs to victims. *See Victim Costs, supra,* at 1, 17, 23.

Additional post-enactment data more particularly documents the ways in which gender-motivated violence adversely impacts women's participation in the national economy, and increases women's utilization of medical services and reliance on public assistance.

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[2] *See* Ariella Hyman et al., *Laws Mandating Reporting of Domestic Violence: Do They Promote Patient Well-Being?*, 273 JAMA 1781 (1995) [hereinafter *Reporting of Domestic Violence*]; Laurence A. Greenfeld, U.S. Dept. of Justice, *Violence by Intimates: Analysis of Data on Crimes by Current or Former Spouses, Boyfriends, and Girlfriends* v (1998) [hereinafter *Violence by Intimates*]; Bureau of Justice Statistics, U.S. Dept. of Justice, *Violence Between Intimates* 2 (1994).

[3] The National Institute of Justice, a component of the Office of Justice Programs, is the research and development agency of the United States Department of Justice. *See Victim Costs, supra,* at unnumbered page following title page.

[4] *See* Callie M. Rennison, U.S. Dept. of Justice, *Criminal Victimization 1998: Changes 1997-1998 with Trends 1993-98* 5 (1999).

B. Gender-Motivated Violence Severely Limits Women's Employment Opportunities And Productivity.

1. Recent studies reinforce Congress' findings that gender-motivated violence prevents women's full participation in the national economy.

Congress found that "[g]ender-based violence bars its most likely targets – women – from full partic[ipation] in the national economy" (S. Rep. No. 103-138, at 54 (1993)) and heard testimony that domestic violence alone costs the nation's employers $3 to $5 billion annually through absenteeism (*Women and Violence, Hearings Before the Senate Comm. on the Judiciary,* 101st Cong., 58 (1990) [hereinafter S. Hrg. 101-939], pt. 1 (statement of Helen Neuborne, executive director of NOW Legal Defense and Education Fund)). Congress concluded that gender-motivated violence physically prevents American women from fully participating in commercial activity and that domestic violence "in particular significantly impairs [women's] job performance . . . [because] [v]ictims of domestic violence are often harassed by their batterers at work, prevented from arriving to work on time, and kept from attending work altogether because of serious injuries." Johanna R. Shargel, Note, *In Defense of the Civil Rights Remedy of the Violence Against Women Act,* 106 Yale L.J. 1849, 1854 (1997); *see also* S. Hrg. 101-939, pt. 1, at 69 (1990) (statement of NOW Legal Defense and Education Fund); *id.* at 58, 68-69; S. Rep. No. 103-138, at 54 & n.70 (1993); S. Rep. No. 101-545, at 33 (1990).

Congress also determined that the threat of violence adversely impacts commerce by affecting women's employment decisions and conduct: "[T]he fear of gender-based violence affects the economy because it

deters women from taking jobs in certain areas or at certain hours that pose a significant risk of such violence."[5] S. Rep. No. 103-138, at 54 (1993); *accord* S. Rep. No. 102-197, at 53 (1991). Fear of violence also deters women disproportionately from using public transportation. *See* S. Hrg. 101-939, pt. 1, at 69 (statement of NOW Legal Defense and Education Fund) (footnote omitted). "The likelihood of crime on certain modes of public transportation also acts as a barrier to mobility, particularly for those women who have no alternative to public transportation because of economic constraints." *Id.; see also id.* (as a result of the limitations fear of violence imposes on the use of public transportation, employment opportunities for women dependent on public transportation are reduced). As the Senate Judiciary Committee observed, gender-motivated violence also causes long-term economic harm in the form of "lost careers, decreased productivity, foregone educational opportunities, and long-term health problems." S. Rep. No. 101-545, at 33 (1990).

Numerous studies completed subsequent to the enactment of the VAWA further document the extent to which gender-motivated violence reduces women's employment opportunities, job advancement, and productivity, thereby excluding them from full participation in the national economy. As the American Psychological Association noted earlier this year: "Violence interferes with work, job training, and education and thus undermines women's attempts at economic independence. In

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[5] This Court has similarly concluded that rape "undermines the community's sense of security" and thereby inflicts "public injury" as well as private harm. *See Coker v. Georgia*, 433 U.S. 584, 598 (1977).

addition, pervasive violence may also leave women with physical injuries and psychological consequences that make work difficult." American Psychological Ass'n, *Making "Welfare to Work" Really Work: Domestic Violence* (visited Oct. 18, 1999) <http://www.apa.org/pi/wpo/domestic.html> [hereinafter *American Psychological Ass'n Report*]. A 1998 report of the General Accounting Office ("GAO") similarly concluded that gender-based violence prevents women from maintaining employment and adversely impacts their job performance:

> [R]esearch . . . indicates that the effects of domestic violence on a woman's job performance can make it difficult for some battered women to maintain their employment or to advance in their jobs. According to the surveys of service providers and abused women we reviewed, women may be late for work or miss work entirely for reasons such as . . . unexpected lack of child care and visible injuries. In addition, abusers' harassment of women at work could jeopardize their jobs. . . .
>
> Some domestic violence victims may, in addition, experience emotional or physical health problems that could potentially affect their ability to find and maintain employment. The studies we reviewed found that the women who had been abused often suffered from chronic health problems, low self-esteem, and depression and exhibited behaviors associated with post-traumatic stress disorder (PTSD).

U.S. General Accounting Office, *Domestic Violence: Prevalence and Implications for Employment Among Welfare Recipients* 8-9 (1998) [hereinafter *GAO Report*].

2. Batterers use violence to actively prevent women from entering the workforce and gaining economic independence.

Exclusion from the workplace is often the intended result, not merely an unintended consequence, of violence against women. Studies indicate that "abusers often feel threatened by a woman's efforts to improve [herself] and become financially independent, since those efforts could provide options to women that would help them leave the abusive relationship." *GAO Report, supra*, at 7; *see also Reporting of Domestic Violence, supra*, at 1783 ("Batterers often escalate the violence if their partners increase help-seeking measures or attempt separation"). As a result, "[h]igh percentages of abused women report[ ] . . . interference from their intimate partners with education, training and work." Jody Raphael & Richard M. Tolman, Project for Research on Welfare, Work, and Domestic Violence, *Trapped in Poverty/Trapped by Abuse: New Evidence Documenting the Relationship Between Domestic Violence and Welfare* 5 (1997) [hereinafter *Trapped in Poverty/Trapped by Abuse*]; *see also id.* at 9 ("Some women on welfare who do not comply with work and/or training requirements while receiving assistance are being prevented from doing so by the direct behavior of an abusive partner, or by the indirect effects of the abuse on their health and well-being."); Catherine K. Ruckelshaus, *Unemployment Compensation for Victims of Domestic Violence: An Important Link to Economic and Employment Security*, Special Issue 1996 Clearinghouse Rev. 209, 211 & n.7 (1996) (citing studies showing "that women on welfare are often precluded from making the transition into employment because of a male abuser and that women in job training programs or low-income jobs are often forced

to quit because of domestic violence pressures"); *American Psychological Ass'n Report, supra* (violence against women "has a direct impact in keeping welfare recipients from holding jobs and becoming self-sufficient").

A study of women recruited from four domestic violence shelters in Chicago between February and April 1997 found that 46% of the participants' abusers forbade the participants to get jobs. *See Trapped in Poverty/Trapped by Abuse, supra*, at 4-5 (Supp. 1998) (discussing Stephanie Riger et al., University of Ill. at Chicago, *Obstacles to Employment of Women with Abusive Partners*). The same percentage of abusers threatened to prevent participants from going to work or school. *See id.* at 5 (Supp. 1998). Other tactics employed by abusers to prevent their victims from working included threats to sabotage the car (29%), not showing up for child care (37%), lying about the children's health or safety (34%), stealing car keys or money (46%), and refusing to give a ride to work or school (51%). *See id.* at 5 (Supp. 1998); *see also GAO Report, supra*, at 7 (abusers may "inflict[ ] visible signs of abuse, such as bruises, black eyes, and cigarette burns, so the women will be too embarrassed to go to training, work, or a job interview").

Intended or not, however, the impact of gender-motivated violence on women's employment opportunities is drastic. For example, more than half (57.8%) of women surveyed in a 1999 domestic violence study indicated that they were threatened by their partner to the point that they were afraid to go to school or work. *See* Thomas Moore & Vicky Selkowe, The Institute for Wisconsin's Future, *Domestic Violence Victims in Transition from Welfare to Work: Barriers to Self-Sufficiency and the W-2 Response –*

Summary Version (1999) [hereinafter *Barriers to Self-Sufficiency*]. An earlier study reported that 39.7% of women receiving AFDC who were current victims of physical abuse by an intimate partner were actively prevented by those partners from participating in educational and training opportunities (compared with 12.9% of the entire sample). *See Trapped in Poverty/Trapped by Abuse, supra*, at 4, 11, 13 (discussing William Curcio, Passaic County Bd. of Soc. Servs., *The Passaic County Study of AFDC Recipients in a Welfare-To-Work Program: A Preliminary Analysis*).[6] In another study of female applicants for public assistance, 44% of domestic violence victims reported that their abusive ex-partners had prevented them from working. *See id.* at 1-2 (Supp. 1998) (discussing Jessica Pearson et al., Center for Policy Research, *Child Support and Domestic Violence: The Victims Speak Out*).[7]

3. Gender-based violence adversely impacts interstate commerce by causing absenteeism and lost productivity at work.

Gender-motivated violence decreases women's economic opportunities by harming their ability to work productively and causing them to lose time from work and eventually their jobs. *See Trapped in Poverty/Trapped by*

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[6] The sample for this study consisted of 846 women on AFDC in Passaic County, New Jersey, all mandatory participants in education, training and job-related activities between December 1995 and January 1997. *See Trapped in Poverty/Trapped by Abuse, supra*, at 11.

[7] This study involved female applicants for public assistance in four Colorado welfare offices between April and December 1997. *See Trapped in Poverty/Trapped by Abuse, supra*, at 1 (Supp. 1998).

Abuse, supra, at 33 (studies "confirm that abused women do seek employment but are not able to maintain it"); Ruckleshaus, *supra*, at 211 ("Domestic abuse results in hundreds of thousands of lost work days each year").

Congress found that gender-motivated violence "takes its toll in employee absenteeism and sick time for women who either cannot leave their homes or are afraid to show the physical effects of the violence." S. Rep. No. 101-545, at 37 (1990) (footnote omitted). In connection with the enactment of the VAWA, Congress heard testimony that, according to one survey of abused women, over 9% took time off work due to their injuries and over 19% of those severely beaten were required to be absent from work due to their injuries. *See* S. Hrg. 101-939, pt. 1, at 58 (1990) (statement of Helen Neuborne, executive director of NOW Legal Defense and Education Fund).

Other studies available at the time of the VAWA's enactment reflect a much higher rate of absenteeism and lost work productivity as a result of domestic violence. According to a 1988 survey, "Over half of women surveyed in domestic violence shelters reported that they had missed work as a consequence of domestic violence, nearly three-fifths reported that their work was compromised by absenteeism and tardiness related to domestic violence, and nearly one-quarter reported that they lost a job partly because of domestic violence." Amy Johnson & Alicia Meckstroth, Mathematica Policy Research, Inc., *Ancillary Services to Support Welfare to Work* (Chapter on Domestic Violence) 3 (1998) [hereinafter *Mathematica Policy Research Report*] (citing Melanie Shepard & Ellen Pence, *The Effect of Battering on the Employment Status of Women*, 55 Affilia (1988)). Similarly, in a small sample of domestic violence victims in a large metropolitan area,

over half reported having lost at least one job and missed an average of three days of work per month as a result of domestic violence. *See id.* (citing L. Friedman & S. Couper, Victim Serv. Agency, *The Cost of Domestic Violence: A Preliminary Investigation of the Financial Cost of Domestic Violence* (1987)). Another study found that "over 70% of employed battered women are subject to telephone harassment at work by their abusers; over 60% are late to work because of their abuser; over 50% miss work because of abuse; and 70% have difficulty performing their job because of their abusive situation." Shargel, *supra*, at 1854 n.32 (citing Connie Stanley, Domestic Violence: An Occupational Impact Study 17 (July 27, 1992) (unpublished manuscript, on file with the *Yale Law Journal*)).[8]

Studies published after the enactment of the VAWA civil rights remedy similarly reflect a high rate of absenteeism and a decrease in work productivity amongst female employees subjected to domestic violence. A 1999 study conducted in Wisconsin concluded that domestic violence has "a severe negative impact on low-income women's ability to maintain jobs and to succeed at education and training efforts." *Barriers to Self-Sufficiency, supra*. Of the 274 domestic violence victims who completed the survey, approximately 30% reported they were fired or lost a job because of domestic violence, and 35% reported that the abuse hurt their education and training

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[8] Likewise, as the Senate Judiciary Committee observed in enacting the VAWA, half of women who are victims of rape lose their jobs or are forced to quit in the aftermath of the crime (*see* S. Rep. No. 103-138, at 54 (1993)) and the other half who remain employed are likely to experience a prolonged period of decreased productivity (*see* S. Rep. No. 101-545, at 33 (1990)).

efforts. *See id.* A study of AFDC recipients in Cook County, Illinois, found the impact of domestic violence on a woman's worklife to be even more severe: the likelihood of a woman working part- or full-time for at least one month during the study period (May through September 1997) was reduced by 87% for women who had experienced domestic violence. *See Trapped in Poverty/ Trapped by Abuse, supra*, at 4 (Supp. 1998) (discussing Kristen Shook & Carrie Guthrie, University of Chicago, *Domestic Violence, Economic Hardship, and Employment*). Likewise, in a study of women recruited from domestic violence shelters, 52% of the participants who worked were fired or had to quit because of the abuse, and 85% missed work because of abuse. *See id.* at 5 (Supp. 1998) (discussing Stephanie Riger et al., University of Ill. at Chicago, *Obstacles to Employment of Women with Abusive Partners*).

Individual women's experiences vividly demonstrate how domestic violence jeopardizes a woman's job as well as her life:

- Mary, a counselor for people living with autism, was battered by her partner so badly she required hospitalization. After the relationship ended, Mary's ex-partner repeatedly threatened to kill her, harassed her, and stalked her. Although Mary obtained a civil protection order against her ex-partner and continued to work, she was forced to flee to another city to stay with a friend when her ex-partner came to her home and threatened to kill her. When Mary was leaving her friend's home on her way to work, she saw her ex-partner waiting for her outside. Fearful that her ex-partner might attack her again, Mary returned to her friend's house

and notified the police. Mary's employer fired her two days later, citing her poor attendance record.[9]

- Amy Hall, a teacher's assistant, was physically and mentally abused by her husband, who repeatedly threatened her life and the safety of the children at the school where she was employed. Believing her life was in danger, Amy resigned her job and moved to another state.[10]
- Yvette Pagan was employed as a legal secretary for a law firm. She was also the victim of constant abuse and harassment by her husband. The harassment affected Yvette's ability to concentrate on the job and perform her duties. The abuse continued to escalate and ultimately the husband physically assaulted and threatened to kill Yvette, leaving her distraught and in fear for her life. Although Yvette obtained a temporary restraining order against her husband, the abuse and harassment continued, including constant calls from her husband while she was at work. Although Yvette loved her work, she concluded she had no other choice but to leave her job, and she relocated to another state.[11]

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[9] *See* Robin Runge, *Double Jeopardy: Victims of Domestic Violence Face Twice The Abuse*, 25 Hum. Rts. 19 (1998).

[10] *See Hall v. Florida Unemployment Appeals Comm'n*, No. 96-3079, slip op. at 2 (Fla. Dist. Ct. App. June 27, 1997); *see also* Pamela Coukos, *Connections Between Domestic Violence and Sexual Harassment in the Workplace: Seeking Safety and Equality for Women* 4-5 (1998).

[11] *See Pagan v. Board of Review*, No. A-3964-94T1, slip op. at 2-3 (N.J. Super. Ct. App. Div. Jan. 22, 1997).

4. When domestic violence enters the workplace, it further decreases women's economic productivity.

Abuse often follows women to work, causing further loss in productivity. Current or former husbands and boyfriends commit more than 13,000 acts of violence against women at their workplace each year. *See* Senator Joseph R. Biden, Jr., *Safer Streets, Safer Homes: The Successes of the Violence Against Women Act and the Challenge for the Future* 69 (1999) (citing D. Amfuso, *Deflecting Workplace Violence*, 10 Personnel Journal 66, 73 (1994)). The experiences of individual women illustrate the adverse economic impact domestic violence can have when it extends to the workplace:

- "Mary Hughes" worked for many years as a legal secretary in a law firm. However, at home her husband beat her and threatened to kill her, and the abuse eventually followed her to the office. Mary's husband called her at work several times a day, was rude to the office receptionist, and so disrupted the office routine that, at one point, Mary's boss told her she might have to be fired if this continued. Eventually, when Mary's husband violated a TRO she had obtained against him, Mary relocated to another state and quit her job to escape the abuse.[12]
- Maureen Valdez worked as a pilot-car driver, driving a pilot vehicle under the direction and control of a truck driver. She was subjected to repeated physical assaults and sexual harassment by her former domestic partner, a male co-worker. After he used a

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[12] *See* Ruckleshaus, *supra*, at 209.

> **hammer to smash the headlights of her car while she and her children were inside it, parked in the employer's lot, Maureen's employer fired her, purportedly because her former domestic partner might commit other violent acts at work. Soon afterward the employer allowed Maureen to return to work, but fired her again a few months later because her former domestic partner threatened to kill her if she continued to work there.[13]**

5. Gender-based violence impairs women's long-term career and educational opportunities.

As the authors of a 1998 report to the U.S. Department of Health and Human Services observed, "[d]omestic violence may depress [women's] socioeconomic and job status attainment over time, compromising their ability to be consistent labor market participants." *Mathematica Policy Research Report, supra,* at 2. Domestic violence victims "are significantly more likely [than non-victims] to have been unemployed at some point, to have held more jobs, to have suffered from a range of mental and physical health problems that can affect work, and to have lower personal incomes." *Id.* at 2-3 (citing Susan Lloyd, *The Effects of Violence on Women's Employment*, 19 Law and Pol'y 139 (1997)).

Petitioner Christy Brzonkala's experience is illustrative of the long-term economic barriers caused by gender-based violence: her rape as a college freshman by two fellow students forced her to leave Virginia Tech, an

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[13] *See* Complaint at 1-4, *Valdez v. Truss Components, Inc.*, No. CV 98-1310 (D. Or. filed Oct. 23, 1998).

institution to which she had been paying tutition, room and board and fees, and from which she expected to earn a degree that would prepare her for the workplace. Without a college degree, Brzonkala will have a more difficult time finding a higher-income job and her future job opportunities are likely to be reduced. Even if she later enrolls in another college and obtains a degree, Brzonkala will suffer the effects of a delayed education and lower overall earnings.

The decreased educational and employment opportunities experienced by Brzonkala as a result of gender-motivated violence are consistent with testimony heard by the Senate during the VAWA hearings: rape is a leading cause of freshmen women dropping out of college, which prevents them from obtaining a degree and competing for higher-income jobs. *See* S. Hrg. 101-939, pt. 2, at 4; *see also Violence Against Women: Victims of the System: Hearings Before the Senate Comm. on the Judiciary,* 102d Cong. 243 (1991) [hereinafter S. Hrg. 102-369] (statement of National Fed'n of Bus. and Prof'l Women, Inc.) ("It is not unusual for a college woman victimized by rape to drop out of school altogether. And, even if a woman does not drop out, she may feel it necessary to interrupt her college career simply to avoid her attacker"). The Congressional testimony of other collegiate rape victims further demonstrates that the adverse impact of Christy Brzonkala's rape on her education and future earning capacity is not unusual:

- After she was raped, Amy Kaylor was unable to concentrate on her studies, dropped out of school for a quarter, and

ultimately lost her funding for her college education.[14]

- Christine Shunk transferred schools after being raped. After a second rape, she flunked classes, delaying her education.[15]

C. Gender-Motivated Violence Increases Women's Reliance On Medical Services.

Congress found that gender-motivated violence also exerts a substantial adverse effect on interstate commerce by increasing medical costs. *See*. H.R. Conf. Rep. No. 103-711, at 385 (1994), *reprinted in* 1994 U.S.C.C.A.N. 1839, 1853; *see also* S. Rep. No. 103-138, at 54 (1993) (gender-based crimes and the fear of gender-based crimes affect interstate commerce and the national economy by increasing health expenditures). Congress heard testimony that medical costs related to domestic abuse are estimated to top $100 million per year (*see* S. Hrg. 101-939, pt. 1, at 58 (1990) (statement of Helen Neuborne, executive director of NOW Legal Defense and Education Fund); S. Hrg. 102-369, at 240 (1991)) and that abused women are required to spend twice as many days in bed as other women; are in poor health three times as often as other women; have four times the rate of depression; and attempt suicide five and one-half times more than other women (*see* S. Hrg. 101-939, pt. 1, at 68 (1990) (statement of NOW Legal Defense and Education Fund)).

In short, as both Attorney General Janet Reno and the past president of the American Medical Association, Dr. Robert McAfee, have recognized, domestic violence is a

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[14] *See* S. Hrg. 102-369, at 132 (1991).

[15] *See* S. Hrg. 101-939, pt. 2, at 6 (1990).

major public health issue,[16] even one incident of which "can have lasting, damaging effects on women's health."[17]

Domestic violence directly increases medical costs by inflicting injuries on its victims that require treatment – injuries that are typically more severe than those caused by violence against men. A 1998 study found that the difference between women's and men's rates of physical assault by an intimate partner become greater as the seriousness of the assault increases, and women are more likely to experience serious physical injuries from their intimates than men. *See* Patricia Tjaden & Nancy Thoennes, National Inst. of Justice, *Prevalence, Incidence, and Consequences of Violence Against Women: Findings from the National Violence Against Women Survey* 7 (1998). The study found that while women were two to three times more likely than men to report that an intimate partner threw something that could hurt or pushed, grabbed, or shoved them, women were seven to fourteen times more likely to report that an intimate partner beat them up, choked or tried to drown them, threatened them with a gun, or actually used a gun on them. *See id.* The study also found that women who were raped or physically assaulted by a current or former intimate partner were

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[16] *See* Janet Reno, *Remarks of the Attorney General, Emory Univ. Inst. for Women's Studies, Rosalyn Carter Distinguished Lecture in Pub. Pol'y* (1997) ("Domestic violence is clearly a health issue."); *id.* (family violence is " 'a major public health problem' ") (citing statement of Dr. Robert McAfee).

[17] *See* The Commonwealth Fund, *Women's Health Care: A Mixed Story* (last modified May 5, 1999) <http://www.cmwf.org/media/releases/ksc%5Fwhsurvey%5FRelease0505.asp> (citing statement of Dr. McAfee).

significantly more likely to sustain injuries than men who were raped or physically assaulted by a current or former intimate partner. *See id.* at 12.

In fact, "[m]ore women are treated for injuries resulting from domestic violence than for any other cause of injury"[18] and "compared with women with no history of abuse, abused women have higher levels of health care use."[19] In particular:

- A 1996 National Institute of Justice study found that women make 1.85 million emergency department visits annually as the result of physical abuse by their partners. *See Victim Costs, supra,* at 6. This amounts to 21 percent of all emergency department visits made by women.[20]
- Between 21% and 66% of female patients seeking general medical care report

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[18] Anna E. Waller et al., *Development and Validation of an Emergency Department Screening and Referral Protocol for Victims of Domestic Violence,* 27 Annals of Emergency Med. 755 (1996); *see also Reporting of Domestic Violence, supra,* at 1781 ("Domestic violence is believed to be the most common cause of serious injury to women").

[19] Michael A. Rodriguez et al., *Screening and Intervention for Intimate Partner Abuse: Practices and Attitudes of Primary Care Physicians,* 282 JAMA 468, 468 (1999).

[20] *See* Waller, *supra,* at 755. Other studies have found this percentage ranges from 17% to 30%. *See id. See also* L. Kevin Hamberger et al., *Physician Interaction with Battered Women,* 7 Archives of Fam. Med. 575 (1998) ("In emergency departments, 10% to 35% of female patients seen have been battered"); Rodriguez, *supra,* at 468 ("31% to 54% of female patients seeking emergency services . . . report experiencing intimate partner abuse"); Waller, *supra,* at 754-55, 760 ("It has been estimated that 17% to 30% of all women treated in hospital [emergency departments] are victims of domestic violence").

experiencing intimate partner abuse. *See* Rodriguez, *supra,* at 468.

- "In outpatient practices, almost 1 in 4 women have been battered in the past year, and 39% to 44% of female patients have been battered in their lifetime." Hamberger, *supra* (footnotes omitted).
- The prevalence of domestic violence among patients in ambulatory care settings has been estimated to be between 20% and 30%. *See Reporting of Domestic Violence, supra,* at 1781.
- About half of all female victims of intimate violence (*i.e.,* violence inflicted by a current or former spouse, boyfriend, or girlfriend) report an injury of some type, and about 20 percent of those seek medical assistance. *See Violence by Intimates, supra,* at 17.
- In 1994, about 1.4 million people injured as a result of intentional violence were examined in emergency departments. *See id.* at 22. About one-quarter of these injuries resulted from violence by an intimate. *See id.* Females accounted for 39% of the hospital emergency department visits for violence-related injuries in 1994, but they accounted for 84% of the persons treated for injuries inflicted by intimates. *See id.*

Rape similarly requires victims to seek medical treatment and use healthcare resources on a more frequent basis in the aftermath of an assault.[21] "In one study of rape victims, visits to physicians increased 18% in the year of the assault, 56% in the next year, and 31% in the

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[21] As this Court has previously recognized, "[r]ape is very often accompanied by physical injury to the female and can also inflict mental and psychological damage." *Coker v. Georgia,* 433 U.S. 584, 598 (1977).

following year, compared with pre-assault levels." Robinette Bell et al., The Commonwealth Fund Comm'n on Women's Health, *Violence Against Women in the United States: A Comprehensive Background Paper* 32 (1994) (citing M. Koss et al., *Deleterious Effects of Criminal Victimization on Women's Health and Medical Utilization*, 151 Archives of Internal Med. 342 (1991)).

The medical costs from women's increased reliance on the health care system to treat their physical and psychic injuries from gender-based violence is staggering. Each year between 1992 and 1996, an estimated 57,500 female victims of intimate violence incurred over $61 million in medical expenses. *See Violence by Intimates, supra*, at 21. The Centers for Disease Control and Prevention reports that recent research in Minnesota found that women who are victims of intimate partner violence have an annual health care cost of $1,775 more than that of women who are not victims of intimate partner violence. *See* Centers for Disease Control & Prevention, *October is Domestic Violence Awareness Month* (visited Oct. 18, 1999) <http://www.cdc.gov/ncipc/dvp/fivpt/spotlite/home.htm> (citing C. L. Wisner et al., *Intimate Partner Violence Against Women: Do Victims Cost Health Plans More?* 48 J. of Fam. Prac. (1999)). The National Institute of Justice estimates that rape like that perpetrated against petitioner Christy Brzonkala (or attempted rape) imposes even more healthcare costs per incident than domestic violence: a woman who is raped generally requires $2,700 for medical and mental health care, while an incident of domestic violence on average costs the victim $391 for medical and mental health care. *See Victim Costs, supra*, at 9. The aggregate annual cost to victims for medical and mental health care resulting from rape is about $4 billion;

the aggregate annual cost to victims for medical and mental health care resulting from domestic violence is about $740,000,000. *See id.* at 17.

These studies demonstrate violence against women necessitates enormous additional expenditures of the nation's medical care resources. Particularly in an era of health provider consolidation and at a time when many public and private health care institutions operate in more than one state, these expenditures again demonstrate Congress rationally concluded that gender-based violence substantially affects interstate commerce.

D. Gender-Motivated Violence Increases Lower-Income Families' Reliance On Public Assistance Programs.

By keeping women out of the workforce (*see supra* Part B.2), gender-motivated violence increases lower-income families' need for public assistance as women seek to end an abusive relationship and gain economic independence to create a new life for themselves and their children.

Women victimized by gender-motivated violence may be forced to rely on public assistance because the violence excludes them from the job market,[22] leaving them to "use welfare in their efforts to end the violence in their lives. . . . " Eleanor Lyon, National Resource Ctr. On Domestic Violence, *Poverty, Welfare and Battered Women:*

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[22] In addition, when women become unemployed because of domestic violence, they are unlikely to be found eligible for unemployment compensation and are often forced to go on welfare. *See* Ruckelshaus, *supra*, at 209-10.

What Does The Research Tell Us? (1998) [hereinafter *Poverty, Welfare and Battered Women*] (citing Jody Raphael, *Domestic Violence and Welfare Receipt: The Unexplored Barrier to Employment*, 3 Georgetown J. on Fighting Poverty 29-34 (1995)). For many battered women, welfare is the only income source which allows them to immediately free themselves from financial dependence on their abusers. *See* Diana Zuckerman & Stacey Friedman, Institute for Women's Pol'y Research, *Measuring the Costs of Domestic Violence Against Women: A Summary of the Findings of the Domestic Violence Project* 9 (1998). By "us[ing] welfare strategically in response to their partners' violence," women may gain some measure of independence from their abuser. *Poverty, Welfare and Battered Women, supra; see also* Louise Laurence & Roberta Spalter-Roth, Institute for Women's Pol'y Research, *Measuring the Costs of Domestic Violence Against Women and the Cost-Effectiveness of Interventions: An Initial Assessment and Proposals for Further Research* 13 (1996) ("Those leaving abusive relationships may try to substitute welfare income for income from husbands or from their own earnings during transitional periods when they attempt to establish new lives for themselves and their children"); Wendy Pollack, *Twice Victimized – Domestic Violence and Welfare "Reform,"* Special Issue 1996 Clearinghouse Rev. 329, 330 (1996) ("Without an entitlement to cash and other forms of public assistance, women may not be able to extricate themselves and their children from violent situations").[23]

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[23] However, women's use of welfare to free themselves from abuse may also prompt a renewal or escalation of violence by an abuser trying to regain control. *See Poverty, Welfare and Battered Women, supra* (citing R. Brandwein, *The Use Of Public Welfare by Family Violence Victims: Implications of New Federal*

The sheer number of domestic violence victims who are welfare recipients ensures that the economic burden imposed by gender-motivated violence on the state and federal welfare system is substantial. According to the GAO, research studies "consistently indicate that a sizable proportion of welfare recipients have been or are victims of some type of abuse by an intimate partner." *GAO Report, supra,* at 3. The GAO reports:

> According to these studies, approximately 15 to 56 percent of the women [welfare recipients] surveyed reported that they were current victims or had been victims of physical domestic abuse in the 12 months preceding the survey, and between 55 and 65 percent reported that they had been physically abused by an intimate partner at some point in their lives. . . . These estimates are higher than estimates of the prevalence of domestic violence among the general population.

Id. at 4; *see also* Pollack, *supra,* at 329-30 ("Research supports what domestic violence advocates and welfare-to-work service providers have observed for years – between 50 percent and 80 percent of women receiving AFDC nationwide are past or current victims of domestic violence").

One study conducted from September 1994 to May 1995 found that women receiving AFDC were more likely to have experienced physical abuse and severe aggression, either in the past 12 months or at any point in their life, than women not on welfare. *See Trapped in Poverty/ Trapped by Abuse, supra,* at 25 (discussing Susan Lloyd, *The*

Welfare "Reform," Paper presented at the Fifth Int'l Fam. Violence Research Conference, Durham, N.H. (1997)).

Effects of Violence on Women's Employment). Over half (55.1%) of the women in this study who reported having experienced physical aggression in the past 12 months had received AFDC benefits during that time, compared to 33.3% of the sample.[24] *See id.*

Another study of 734 women receiving AFDC in Massachusetts between January and June 1996 found that almost 20% of respondents had been victims of domestic violence in the 12 months preceding the survey and that about 65% had been victims of domestic violence at some point in their lives. *See GAO Report, supra,* at 5 (citing Mary Ann Allard et al., *In Harm's Way? Domestic Violence, AFDC Receipt, and Welfare Reform in Massachusetts* (1997)).

In its report to the U.S. Department of Health and Human Services, Mathematica Policy Research, Inc. found that welfare recipients are three to three-and-a-half times more likely to suffer from domestic violence than are non-recipients. See *Mathematica Policy Research Report, supra,* at 2 (citing The Commonwealth Fund, *The Health of American Women* (1993) and Susan Lloyd, *The Effects of Violence on Women's Employment*, 19 Law and Pol'y 139 (1997)).

The cycle of domestic violence also ensures that victims will be required to obtain welfare resources on a cyclical and long-term basis.[25] As noted in a report to the

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[24] In addition to AFDC, women in this study who reported having been abused at some point in their lives had "significantly higher rates of receipt" of Medicaid and food stamps than women who reported never having been abused. *GAO Report, supra,* at 6.

[25] Women with a history of domestic violence may seek exemptions from recently-enacted restrictions – including time

Department of Health and Human Services, victims of domestic violence may cycle on and off welfare more frequently than other welfare recipients, often as a result of the nature of their relationship with an abuser. *See id.* (citing R. Brandwein, *The Use of Public Welfare by Family Violence Victims: Implications for a New Federal Welfare "Reform,"* Paper presented at the Fifth Int'l Fam. Violence Research Conference, Durham, N.H. (1997)). Moreover, among women who had received welfare for two years or longer, those with a lifetime history of victimization were significantly more likely to have had a greater number of welfare spells. *See id.* (citing Ellen Bassuk et al., *The Characteristics and Needs of Sheltered Homeless and Low-Income Housed Mothers*, 276 JAMA 640 (1996)). Among welfare recipients, domestic violence victims were more likely than non-victims to be long-term (five years or longer) welfare recipients. *See id.* (citing Ellen Bassuk et al., *The Characteristics and Needs of Sheltered Homeless and Low-Income Housed Mothers*, 276 JAMA 640 (1996)).

As a result of both the length of time which domestic violence victims are likely to remain on welfare, and the sheer number of domestic violence victims who are welfare recipients, the economic burden imposed by such violence on state and federal welfare systems (and necessarily interstate commerce) is substantial.

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limits – on access to welfare benefits. *See* 42 U.S.C.A. § 602(a)(7) (West Supp. 1999) ("Family Violence Option" contained in 1996 Personal Responsibility and Work Opportunity Reconciliation Act, PL 104-193).

CONCLUSION

For the foregoing reasons, *amici* urge that the decision of the en banc Fourth Circuit Court of Appeals be reversed.

Respectfully Submitted,

HORVITZ & LEVY LLP
DAVID S. ETTINGER
LISA R. JASKOL
MARY-CHRISTINE SUNGAILA*
*Counsel of Record
15760 Ventura Boulevard,
18th Floor
Encino, California 91436-3000
(818) 995-0800

November, 1999 — *Counsel for Amici Curiae*

APPENDIX

STATEMENTS OF INTEREST OF *AMICI CURIAE*

Equal Rights Advocates

Equal Rights Advocates (ERA) is one of the oldest public interest law firms specializing in educational and litigation efforts to eliminate gender discrimination and secure equal rights. Begun in 1974 as a teaching law firm focused on sex-based discrimination, ERA has evolved into a legal organization with a multi-faceted approach to addressing women's issues. Its current work includes impact litigation, advice and counseling, public education, and public policy initiatives. ERA has been engaged in both educational and litigation efforts to eliminate gender-motivated violence. It has participated as counsel and amicus curiae in numerous cases in which women have been subjected to gender-motivated violence.

American Association of University Women

For over a century, the American Association of University Women (AAUW), an organization of 150,000 members, has been a catalyst for the advancement of women and their transformations of American society. In more than 1,500 communities across the country, AAUW members work to promote education and equity for all women and girls, lifelong learning, and positive societal change. AAUW plays a major role in activating advocates nationwide on AAUW's priority issues, including: gender equity in education, reproductive choice, social security, and workplace and civil rights issues. AAUW believes that making schools, streets, homes, and workplaces safe

for women and girls is fundamental to achieving equity in education, in the workplace, and in all areas of their lives.

American Federation of State, County and Municipal Employees, AFL-CIO

The American Federation of State, County, and Municipal Employees, AFL-CIO (AFSCME) is a labor organization representing approximately 1.5 million working men and women throughout the United States, Puerto Rico, and Panama. Approximately 53% of AFSCME's members are women. AFSCME is the largest union of public employee and health care workers in the country. AFSCME develops, initiates, assists, and defends litigation in state and federal courts and before administrative agencies addressing issues concerning workers' rights, women's rights, and civil rights. AFSCME diligently educates union members about domestic and workplace violence and actively supported passage of the Violence Against Women Act.

Break the Cycle

Break the Cycle is a Los Angeles based, nonprofit, public interest organization whose mission is to end domestic violence by working proactively with youth. We further our mission by providing law-based education, free legal services, advocacy and support services to young people, ages 12-22. Founded in March, 1996, Break the Cycle has been recognized both locally and nationally as a model organization providing groundbreaking social

justice work for young people affected by domestic violence and sexual assault. Each year, Break the Cycle educates thousands of young people about their legal rights and responsibilities regarding domestic violence and provides free advice, counsel and representation to hundreds of young people in need of legal protection. In furtherance of our mission, Break the Cycle supports the Violence Against Women Act and the Civil Rights Remedy and joins as amicus curiae in the case of *Brzonkala v. Morrison*, asserting that Congress acted within the scope of its Commerce Clause authority when it enacted the VAWA civil rights provision.

Business and Professional Women/USA

Business and Professional Women/USA (BPW/USA), is a national, non-profit, non-partisan organization, headquartered in Washington, DC, that promotes equity for all women in the workplace through advocacy, education and information. BPW/USA represents 70,000 working women, with members in nearly 2,000 local organizations across the country. BPW/USA, founded in 1919, has helped to pass much of the nation's landmark legislation relating to economic equity, civil rights and health care. Because of the detrimental effect violence against women has on women's performance in the workplace and on the corporate bottom line, BPW/USA has been a leading advocate for legal remedies protecting women from violence. BPW/USA advocated for the passage of the Violence Against Women Act of 1994 (VAWA) – of which the civil rights provision is an essential part.

The Junior League of Birmingham, Inc.

The Junior League of Birmingham, Inc., is a 501(c)(3) organization of women committed to promoting volunteerism, developing the potential of women, and improving communities. Incorporated in Jefferson County, Alabama, in 1922, the Junior League of Birmingham has a membership of over 2,200 women and will give over 50,000 volunteer hours and $357,000 to more than 30 projects in 1999. These projects strive to improve the safety, economic security, education, health, sense of community, and spirit of volunteerism of women and children in the Birmingham area. Many of the safety projects deal specifically with the problem of violence against women. Additionally, the League recognizes that economic security, education, health, sense of community, and spirit of volunteerism are also adversely affected by gender based abuse and violence. The Junior League of Birmingham believes that safe and stable homes, neighborhoods, schools, and communities are an integral factor in affording women the opportunity to develop to their full potential. Consequently, the Junior League of Birmingham actively supports legislation, such as the Violence Against Women Act, which encourages environments free from abuse and violence.

Alaska Network on Domestic Violence and Sexual Assault

The Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) is a statewide coalition of twenty-one domestic violence and sexual assault programs across

Alaska. ANDVSA is committed to the elimination of personal and societal violence in the lives of women and children. Since its founding in 1980, ANDVSA has been involved in work to further this goal including: coalition building at the state and local levels; fund-raising; support of locally-based programs in public education, policy development, legislative advocacy, training and technical assistance, staff education and planning and coordination. In 1996, ANDVSA developed a Legal Advocacy Project to increase the ability of victims of domestic violence and sexual assault to effectively access and participate in the criminal and civil justice systems. ANDVSA supports the petitioners in *Brzonkala v. Morrison* in order to insure that the civil rights remedy as well as other provisions of VAWA remain an option for domestic violence victims.

American Medical Women's Association

The American Medical Women's Association is a national organization of 10,000 women physicians dedicated to promoting women's health and fostering the woman physician, with branches across the United States. AMWA encourages its members, branches, and national officers to support and promote the end of violence against women of all ages. AMWA deplores the victimization and abuse of women and advocates development and implementation of an education curriculum at the medical school and post graduate levels as well as development of programs in hospitals and health care facilities that provide appropriate care and support for victims of domestic violence.

The Brennan Center for Justice at NYU School of Law

The Brennan Center for Justice at New York University School of Law is a nonpartisan institute dedicated to uniting thinkers and advocates in pursuit of inclusive and effective democracy. The Center's mission is to develop and implement an innovative agenda of scholarship, public education, and legal action that promotes equality and human dignity, while safeguarding fundamental freedoms. The Center's Poverty Program works to ensure access to justice for the poor and to promote economic opportunity with a particular emphasis on fair and decent work. The Center takes an interest in this case because the Fourth Circuit's invalidation of the Violence Against Women Act, unless corrected by this Court, will harm poor women nationwide since gender motivated violence exacerbates the problems of poverty, causing poor women to turn increasingly to government benefits and social services for their survival.

The California State Public Affairs Committee of Junior Leagues

Since 1971, the State Public Affairs Committee of the Junior Leagues of California has represented the interests of its member leagues, and the groups or issue areas addressed by their projects, to policy makers at the State and local levels. The collective voice of this non-partisan group represents over 13,500 women in sixteen communities across the state. In 1998-1999, Junior Leagues across the State have committed 220 volunteers and $114,200 to preventing violence in our communities.

The California Women's Law Center

The California Women's Law Center (CWLC) is a private, nonprofit public interest law center specializing in the civil rights of women and girls in California. We work in five priority areas: Sex Discrimination, Women's Health & Reproductive Rights, Child Care, Family Law and Violence Against Women. Since its inception in 1989, the CWLC has worked to end violence against women, in all its forms, and to protect the legal rights of victims of gender-based crimes. We supported the passage of the Violence Against Women Act, and have educated attorneys, organizations, legislators and the clients we serve about its protections and, in particular, about the Civil Rights Remedy.

Center for Advancement of Public Policy

The Center for Advancement of Public Policy (The Center) is a non-partisan, non-profit policy organization concentrating on women's equity. The Center was founded in 1991, and has a national constituency. The Center actively participates in crafting public policy to protect the rights of women, including the right to be free from violence. Activities include participation in the coalition active in helping to craft the Violence Against Women Act, and raising public awareness of the law and its meaning for women.

Center for Women Policy Studies

The Center for Women Policy Studies (The Center) is a national nonprofit, multiethnic and multicultural feminist policy research and advocacy institution. The Center has been a leader in research, policy analysis and advocacy on violence against women since its founding in 1972. In 1991, the Center published *Violence Against Women as Bias Motivated Hate Crime: Defining the Issues*, which placed rape and battering in the context of bias motivated hate crimes and contributed to the creation of the civil rights remedy in the Violence Against Women Act of 1994. The Center was part of a coalition that assisted in drafting 42 USC § 13981(c) and our testimony in support of the legislation emphasized that, as with other hate crimes, the acts and threats of violence against each woman terrorizes and intimidates the entire class – all women – and thus impedes all women's economic opportunities, educational aspirations and health.

Center on Hate & Extremism

The California based Center on Hate & Extremism (the Center) is a national independent public policy organization organized in 1996. Its mission is to promote intergroup relations through research, legislation, litigation and policies that aid in the reduction and prevention of violence and terrorism committed on the basis of race, religion, color, national origin, sexual orientation, disability and gender. The civil rights remedy in the Violence Against Women Act at issue in *Brzonkala* is, in the Center's view, an important tool in reducing, preventing and remedying gender-based violence.

The Coalition for Humane Immigrant Rights of Los Angeles

The Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) is a nonprofit organization committed to the advancement of the rights of immigrants and refugees. As a multiethnic coalition of community organizations and individuals, CHIRLA aims to foster greater understanding of issues that affect immigrant communities, provide a neutral forum for discussion, and unite immigrant groups to more effectively advocate for positive change. Founded in 1986, CHIRLA promotes laws that protect the civil rights of immigrants, including immigrant women. CHIRLA has a special program that focuses on violence against immigrant women and assists women with petitions under the immigration provisions of the Violence Against Women Act. CHIRLA supports the preservation of the civil rights remedy of the Violence Against Women Act as an essential tool in ending violence against women.

The Employment Law Center, A Project of the Legal Aid Society of San Francisco

The Employment Law Center (ELC) is the principal project of the Legal Aid Society of San Francisco which was founded more than eighty years ago to provide legal assistance to poor immigrants in San Francisco. For the last two decades, the ELC has focused almost exclusively on employment-related issues that affect the working poor. A pioneer in the employment law field, the ELC is nationally recognized for its expertise in this area. The ELC has represented women in numerous gender-based discrimination and harassment cases, including *U.S. v.*

Virginia, 518 U.S. 515, 116 S. Ct. 2264 (1996); *Harris v. Forklift Systems, Inc.*, 510 U.S. 17, 114 S. Ct. 367 (1993); *California Federal Savings and Loan Association v. Guerra*, 479 U.S. 272, 107 S. Ct. 683 (1987); and *Johnson Controls, Inc. v. California Fair Employment and Housing Commission*, 218 Cal.App.3d 517 (4th Dist. 1990). Most recently, the ELC has expanded its advocacy for women by focusing on issues of domestic violence. Through its Domestic Violence and Employment Project, the ELC represents victims of domestic violence who confront workplace issues as a result of that violence.

Feminist Majority Foundation

The Feminist Majority Foundation ("Foundation") is a non-profit organization with offices in Arlington, Virginia and Los Angeles, California. The Foundation is dedicated to eliminating sex discrimination and to the promotion of equality, women's rights and safe access to abortion and birth control and non-violence. The Foundation runs the National Center for Women & Policing, which works to improve police response to violence against women. The National Center conducts training programs on responding to violence against women and works for reforms of police practice in responding to and investigating violence against women. The Feminist Majority, the sister organization to the Foundation, worked for passage of the Violence Against Women Act and strongly supports the ability of women to sue their attackers. Such suits are vital to the victims and to the goal of reducing violence against women.

The General Federation of Women's Clubs

The General Federation of Women's Clubs (GFWC) is the world's largest and oldest women's volunteer organization. Members include business owners, teachers, elected officials, homemakers, corporate executives, college students and retirees. GFWC members are united by a dedication to community improvement through volunteer service. GFWC is a nonpartisan organization, whose members tackle issues such as domestic violence, welfare reform, education, women's health, and children's rights. Our 250,000 members nationwide network to accomplish policies on the local, state, and federal levels. Founded in 1890, GFWC has over 1 million members worldwide in 20 countries.

Harriett Buhai Center for Family Law

The Harriett Buhai Center for Family Law (the Center) is a non-profit public interest organization that has for over 16 years provided family law and domestic violence assistance to low-income families in Los Angeles. Its pro per program is run with the assistance of over 200 volunteer lawyers, volunteers and students who are trained by the Center. The mission of the Center is to assure the families it serves access to the court by teaching them to be their own legal advocates. For over 16 years, self-empowerment of low-income persons has been a key objective of the Center, in particular the many victims of domestic violence it serves. The Center's Domestic Violence Law Project (DVLP) provides direct legal services to 1,200 women and children each year with domestic violence issues. In addition, the DVLP

conducts community education programs and is preparing a comprehensive domestic violence manual for use by shelter workers.

House of Ruth Domestic Violence Legal Clinic

The House of Ruth Domestic Violence Legal Clinic (The Legal Clinic) provides legal services for victims of domestic violence. This includes representation in protective order cases, divorce and custody proceedings; assistance for victim-witnesses in criminal prosecutions; and advocacy on policy matters to enhance victim protection and increase offender accountability. The Legal Clinic serves victims throughout the State of Maryland and has seven offices, including five walk-in clinics located in Maryland courthouses. The Legal Clinic is part of a larger agency, the House of Ruth Baltimore, which provides a comprehensive range of services including shelter, women's counseling, children's counseling, batterers' education, and training. House of Ruth staff work with many victims who have fled to Maryland from other states to protect themselves and their children from abuse. Countless others leave jobs and assets behind in an effort to find safety. Too often, serious violations of victims' civil rights are given inadequate redress by State courts and institutions. The House of Ruth Domestic Violence Legal Clinic supports the Petitioners in *Brzonkala v. Morrison* because we believe a federal civil rights action is necessary to provide justice to battered women.

International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)

The International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) is a labor organization representing approximately 1.3 million active and retired members. The UAW has a long and proud history as an advocate of civil rights, and the rights of women in particular, through collective bargaining, membership and community education, and litigation. The UAW most recently participated as a party before this Court in a case presenting gender discrimination issues in *UAW v. Johnson Controls*, 499 U.S. 187 (1991), in which the UAW successfully advocated the position that employers violate Title VII in adopting so-called "fetal protection" rules barring women from particular jobs. The UAW also strongly supported passage of the Violence Against Women Act in Congress.

The Junior League of El Paso, Inc.

The Junior League of El Paso, Inc. is an organization of women committed to promoting volunteerism and to improving the community through the action and leadership of trained volunteers. Its purpose is exclusively educational and charitable. The Junior League of El Paso, Inc. believes that the cycle of family violence can only be broken through programs and projects directed at increasing public awareness and education on the issue of domestic violence and abuse, and therefore joins in supporting the civil rights remedy of the Violence Against Women Act.

The Junior League of Oakland-East Bay, Inc./The Junior League of Saint Paul, Inc./The Junior League of San Francisco, Inc.

The Junior Leagues of Oakland-East Bay, Inc., Saint Paul, Inc. and San Francisco, Inc. are non-profit organizations of women committed to promoting volunteerism, developing the potential of women, and improving the community through the effective action and leadership of trained volunteers. They have a combined membership of 5,000 women.

The focus of the Junior League of Oakland-East Bay is Children at Risk. Frequently, violence against women negatively impacts the lives of children if these women are mothers, older sisters, grandmothers, or other important figures in these children's lives. This league supports non-profit agencies in providing volunteers and funding to assist them in helping children whose lives are harmed by the impact of domestic violence and child abuse. This league believes both violence prevention and intervention are critical components to helping children be raised in a safe and caring environment.

Founded in 1917, the Junior League of Saint Paul offers membership open to all women with an interest in volunteerism and a commitment to community service. During 1997-1998, this league gave 20,600 hours of service to its community. Their 80th anniversary project brought blazing red, life-sized silhouettes, created in memory of Minnesota women killed by domestic violence, to the Silent Witness National Initiative's March on Washington, October, 1997. Currently, this project raises awareness about domestic violence in Minnesota. In addition, one of their goals is to reduce the incidence of child

abuse in the Saint Paul area through two joint programs with Children's Hospital and Clinics: "Shaken Baby Syndrome" educates youth, parents and professionals about the syndrome, and "First Steps" mentors teen mothers.

Founded in 1911, the Junior League of San Francisco has provided over 6 million volunteer hours throughout this century, and over $18 million in community grants and services. All projects and efforts are directed toward the focus area of Family Preservation: Supporting Families and Preventing Violence. This league has maintained the Silent Witness Program and crafted domestic violence legislation recently signed into law in California.

Junior League of San Diego, Inc.

The Junior League of San Diego, Inc. is a non-profit charitable organization of women committed to promoting volunteerism, developing the potential of women and improving the community through the effective action and leadership of trained volunteers. For the past seven years our focus has been breaking the cycle of domestic violence, and we have worked on countless projects in our community to combat violence against women as well as advocated for legislation directed at same. The Junior League of San Diego was formed in 1929, and serves the entire San Diego County.

National Alliance of Sexual Assault Coalitions

The National Alliance of Sexual Assault Coalitions ("NASAC"), organized in September of 1995, is a national member organization of state sexual assault coalitions

which focuses on public policy and public education to end sexual violence. NASAC advocates for the needs, rights and concerns of sexual assault victims. In furtherance of those goals, NASAC has a strong interest in the availability of legal redress for victims of rape and sexual assault.

National Association of Commissions for Women

The National Association of Commissions for Women (NACW), formerly the Interstate Commissions on the Status of Women, was established in 1970 and presently represents more than 270 city, county and state commissions nationwide. NACW obtained United Nations NGO status in June, 1998. It serves as a national resource for American women to facilitate collaborative efforts and provides technical expertise to its members and associate/affiliate organizations. Through its member commissions, the NACW advocates on behalf of women on a myriad of public policy issues, including economic and community development programs that promote and enhance the economic well-being of women. Consistent with NACW's mission of supporting and achieving equity and justice for all women, NACW supports the enactment of the Violence Against Women Act's civil rights remedy.

National Association of Human Rights Workers

The National Association of Human Rights Workers (NAHRW) was organized in 1947 to advance the science of intergroup relations and to facilitate the exchange of

ideas and information among individuals and organizations devoted to combating racial, ethnic, religious, gender and other forms of discrimination. NAHRW is a 501(c)(3) organization.

NAHRW is made up of professional staff workers and members of governing boards of human rights agencies and commissions; teachers of intergroup relations at colleges and universities; and other individuals who share a commitment to justice and human dignity.

National Coalition Against Domestic Violence

Founded in 1978, the National Coalition Against Domestic Violence (NCADV) is a grassroots organization representing a national network of over 2,000 local programs and state coalitions that serve battered women and their children. NCADV serves as a national information and referral center for the general public, the media, battered women and their children, public and private agencies and organizations. NCADV sponsors "NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH," in which communities across the country organize special events and activities to draw attention to the ubiquity of domestic violence and work that is being done to end it. NCADV, through its Public Policy Office in Washington, D.C., supported the passage of the Violence Against Women Act.

NCADV is committed to ensuring the safety of all women, be it from domestic violence, sexual assault or stalking. NCADV believes that women have a right to

equal opportunity and treatment in education, employment, and all economic endeavors. When violence is present in a woman's life, it greatly inhibits her ability to participate in social and economic activities and creates a barrier to her social, emotional, and economic development. Women who are victims of gender-based violence often face difficulty in maintaining economic stability for themselves and their children. NCADV therefore urges the Supreme Court to protect victims of gender-based violence by upholding the civil rights remedy included in the Violence Against Women Act of 1994 and reversing the decision of the Fourth Circuit Court of Appeals.

National Council of Jewish Women

The National Council of Jewish Women, Inc. (NCJW) is a volunteer organization, inspired by Jewish values, that works through a program of research, education, advocacy and community service to improve the quality of life for women, children and families and strives to ensure individual rights and freedoms for all. Founded in 1893, the National Council of Jewish Women has 90,000 members in over 500 communities nationwide. Given NCJW's early and active involvement in the passage of the 1994 Violence Against Women Act and NCJW's *National Resolutions*, which supported "the elimination of, and protection from, all forms of harassment, violence and abuse against women everywhere," we join this brief.

National Partnership for Women & Families

The National Partnership for Women & Families is a nonprofit, nonpartisan organization that promotes fairness in the workplace, quality health care, and policies that help women and men meet the dual demands of work and family. Founded in 1971 as the Women's Legal Defense Fund, the National Partnership has grown from a small group of volunteers into one of the nation's most powerful and effective advocates for women and families. The National Partnership has worked to advance the rights and interests of women, including victims of domestic violence, through public education, provision of technical assistance to federal and state policymakers and advocates, participation in cases as amicus curiae, and through the founding of My Sister's Place, a Washington, DC shelter for battered women.

National Women's Health Network

Founded in 1975, the National Women's Health Network is an independent, membership-based, non-profit organization dedicated to safeguarding women's health rights and interests. The Network provides accurate, unbiased health information to women and advocates for national health policies that address women's health needs. The Network's Health Information Clearinghouse responds to more than 5,000 requests annually, both from members and the general public. As an advocate for women's health, the Network is concerned with both the health impact of domestic violence and the need to improve the response of the health care system to survivors of domestic violence. The Network endorsed the

Violence Against Women Act and supports the law, including the VAWA civil rights provision.

Public Counsel

Public Counsel is a non-profit public interest law office dedicated to advancing equal justice under law by delivering pro bono legal services to indigent and under represented children and adults throughout Los Angeles County. It was established in 1970. In 1998, Public Counsel provided legal representation to over 18,000 individuals and non-profit organizations. Legal representation is provided to clients with a variety of legal needs, including immigrant women, men and children who are victims of domestic violence and who are eligible for relief under the immigration provisions of VAWA. In addition to providing direct legal representation to victims of domestic violence, when necessary, Public Counsel assists victims of domestic violence in obtaining temporary shelter and access to government benefits. Since the enactment of VAWA, Public Counsel has provided numerous legal trainings addressing the immigration provisions of VAWA to public and private organizations.

Public Law Center

The Public Law Center (PLC), the only private bar, public interest law firm in Orange County, California, was founded in 1989. PLC provides free civil legal services to low income Orange County residents through its staff and pro bono attorneys. Additionally, PLC strives to ensure that access to justice is not limited by institutional or cost barriers by challenging systemic injustices

through litigation and other forms of advocacy. The nine person staff places cases with approximately 1,300 pro bono attorneys each year.

Western Center on Law and Poverty, Inc.

The Western Center on Law and Poverty (Western Center) is a non-profit legal services agency which provides free legal representation in the courts, the state Legislature, and various administrative forums to low-income persons in California. Western Center was founded in 1967 and specializes in impact litigation, advocacy, and training in the areas of public benefits, health care, and housing. Many of our low-income clients are single mothers, and many of them are domestic violence survivors. We have litigated at least one case under the immigration provisions of the Violence Against Women Act, and frequently are called upon to address the intersection of domestic violence and poverty. For example, we have written and provided training to advocates on the specific provisions relating to time limits, work requirements and supportive services for domestic violence survivors in California's welfare program. Likewise, last term we were co-counsel in *Saenz v. Roe*, 119 S. Ct. 1518 (1999), in which this Court held California's durational residency requirement for welfare benefits unconstitutional. Many class members and some of the named plaintiffs in that case were women who needed welfare benefits in California as a result of domestic violence.

Wider Opportunities for Women

Wider Opportunities for Women (WOW) works nationally and in its home community of Washington, D.C. to achieve economic independence and equality of opportunity for women and girls. For more than 30 years, WOW has helped women learn to earn, with programs emphasizing literacy, technical and nontraditional skills, the welfare-to-work transition and career development. Since 1964, WOW has trained more than 10,000 women for well paid work. WOW strongly supports victims of domestic violence in their struggle to achieve justice and economic self-sufficiency.

Women & Philanthropy

Women & Philanthropy is an association of grantmakers, women and men who recognize that effective solutions to our most pressing societal issues cannot be developed without specific attention to the critical needs and distinctive talents of all women. Collectively, regardless of race, ethnicity, age or sexual orientation, women have a vested interest in ensuring that their voices lend depth and meaning to debates that frame the issues we face as a society. By joining in support of the petitioners in *Brzonkala v. Morrison*, Women & Philanthropy supports women's right to be free of gender-motivated violence and participate fully in the national economy.

Women Employed

Women Employed is a national association of working women based in Chicago, with a membership of 2000.

Since 1973, the organization has assisted thousands of working women with problems of sex discrimination and harassment, monitored the performance of equal opportunity enforcement agencies, and developed specific, detailed proposals for improving enforcement efforts. Women Employed strongly believes that gender-motivated violence is a civil rights violation and a form of discrimination against women that adversely affects interstate commerce by limiting women's employment opportunities.

Women Lawyers Association of Los Angeles

The Women Lawyers Association of Los Angeles (WLALA), established in 1918, now with more than 1,100 members, is dedicated to promoting the full participation of women lawyers and judges in the legal profession, maintaining the integrity of our legal system by advocating principles of fairness and equality and improving the status of women in our society. WLALA has always been committed to assisting women who are victims of domestic violence and currently offers assistance to those women by maintaining a clinic which provides them with free legal advice.

The Women's Bar Association of Illinois

The Women's Bar Association of Illinois (WBAI) was established in 1914 by nine women lawyers in the Chicago Metropolitan area to promote the interests and welfare of women lawyers and also to aid in the enactment of legislation for the common good. Its earliest

efforts were devoted to seeking passage of a constitutional amendment permitting women to vote. In 1939, the WBAI pressed for legislation allowing women to serve on juries.

The WBAI has regularly taken positions on various social issues and lobbied for the passage of legislation that protects the reproductive and health care rights of women and eliminates gender inequities in the workplace. The Association is also committed to improving the economic lives of women in our community. By its active advocacy, the WBAI gives voice to thousands of disenfranchised women and girls as well as to women attorneys. The Association previously successfully argued against sex discrimination in law firm partnership decisions before this Court in an amicus brief filed in *Hishon v. King & Spaulding*.

In the past decade, the WBAI has taken a special interest in helping to end violence against women by conducting public awareness programs, partnering with organizations and shelters that provide services to battered and homeless women, and training lawyers to obtain orders of protection for women in danger. The Violence Against Women Act, which the WBAI has featured in its recent Newsletters, recognizes women's unique vulnerability to acts of criminal sexual assault and offers remedies to rape victims that would not otherwise be available. The WBAI membership joins in this amicus effort to ensure that essential protections afforded to women by the VAWA will be preserved.

The Women's Law Center of Maryland, Inc.

The Women's Law Center of Maryland, Inc. (WLC), established in 1971, advocates for an equal playing field in the law for women and children. For more than a quarter of a century, the WLC has fought and won many battles to protect and preserve the rights of women by educating the public and the judiciary on the effects of legal decisions affecting women, by monitoring compliance with the law, by seeking to change unjust laws and unjust lawmaking, and by implementing innovative programs to pave the way for systemic change. The WLC is participating as an amicus in *Brzonkala v. Morrison* because it supports the right of women to be free from gender-based violence.